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Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Luxembourg, Malta, Monaco, Netherlands, Poland, Portugal, San Marino, Slovenia, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in the Democratic Republic of the Congo

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments,

Reaffirming that all Member States of the United Nations have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in the field,

Aware that the Democratic Republic of the Congo is a party to several international human rights instruments,[1]

[1] Inter alia, the International Covenant on Civil and Political Rights (resolution 2200 A (XXI)), the International Covenant on Economic, Social and Cultural Rights (resolution 2200 A (XXI)), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 39/46, annex), the Convention on the Elimination of All Forms of Discrimination against Women (resolution 34/180, annex), the International Convention on the Elimination of All Forms of Racial Discrimination (resolution 2106 A (XX), annex), the Convention on the Rights of the Child (resolution 44/25, annex) and the two optional protocols thereto (resolution 54/263, annexes I and II), the Convention on the Prevention and Punishment of the Crime of Genocide (resolution 260 A (III)), the Geneva Conventions of 12 August 1949 for the protection of victims of war (United Nations, *Treaty Series*, vol. 75, Nos. 970-973) and the first Additional Protocol thereto, of 1977 (United Nations, *Treaty Series*, vol. 1125, No. 17512), as well as the African Charter on Human and Peoples' Rights (United Nations, *Treaty Series*, vol. 1520, No. 26363).

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Recalling its previous resolutions on the subject, the most recent of which is resolution 56/173 of 19 December 2001, and those of the Commission on Human Rights, the most recent of which is resolution 2002/14 of 19 April 2002, [2] as well as Security Council resolutions on the subject, the most recent of which is resolution 1417 (2002) of 14 June 2002,

Recalling also the Ceasefire Agreement signed at Lusaka,[3] as well as the Kampala disengagement plan[4] the Harare sub-plans for disengagement and redeployment, and the peace agreements signed at Pretoria[5] and Luanda,

Encouraging all Congolese parties to use the present momentum to promote an all-inclusive conclusion of the Inter-Congolese Dialogue,

Noting that the promotion and the protection of human rights for all are essential for achieving stability and security in the region and will contribute to the creation of the environment necessary for cooperation among States in the region,

Concerned at all violations of human rights and international humanitarian law in the territory of the Democratic Republic of the Congo by parties to the conflict, as mentioned in the reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo,[6]

Concerned in particular at continuing violations of human rights and international humanitarian law in the eastern part of the Democratic Republic of the Congo,

Recalling its decision to request the special rapporteurs of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out a joint mission of investigation in the Democratic Republic of the Congo, while regretting that the security situation has not yet allowed such a mission,

1. *Welcomes*:

(a) The Peace Agreement signed in Pretoria on 30 July 2002 between the Governments of the Democratic Republic of the Congo and the Republic of Rwanda on the Withdrawal of the Rwandan Troops from the Territory of the Democratic Republic of the Congo and the Dismantling of the former Forces armées rwandaises and Interahamwe Forces in the Democratic Republic of the Congo and the programme of implementation of that Agreement;[5]

(b) The Peace Agreement signed in Luanda on 6 September 2002 between the Governments of the Democratic Republic of Congo and the Republic of Uganda on the withdrawal of Ugandan troops from the Democratic Republic of Congo and cooperation and normalization of relations between the two countries;

(c) The continuing dialogue between the authorities of the Democratic Republic of the Congo and Burundi and hope that this will result in the Democratic

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[2] See *Official Records of the Economic and Social Council, 2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.

[3] S/1999/815, annex.

[4] See S/2000/330 and Corr.1, paras. 21-28.

[5] See S/2002/914, annex.

[6] A/57/349 and A/57/437.

Republic of the Congo ceasing support for the rebel groups Forces de défense de la démocratie and Forces nationales pour la libération and all Burundi government forces withdrawing from the territory of the Democratic Republic of the Congo, leading to the permanent normalization of relations between the two countries;

(d) The significant foreign troop withdrawals from the territory of the Democratic Republic of the Congo;

(e) The release by the Government of the Democratic Republic of the Congo of some human rights defenders and its lifting of some restrictions on non-governmental organizations, and the adoption by the Government of Law No. 001 of 17 May 2001, on political parties, notwithstanding the statements made by the Government;

(f) The commitment by the Government of the Democratic Republic of the Congo to cooperate with United Nations agencies, non-governmental organizations and the World Bank to prepare for and implement demobilization and reintegration programmes, in particular for child soldiers;

(g) The ratification in 2001 by the Democratic Republic of the Congo of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[7]

(h) The recent arrest and transferral to Arusha of a prominent suspect in the Rwandan genocide;

(i) The ratification in 2002 by the Democratic Republic of the Congo of the Statute of the International Criminal Court;[8]

(j) The reports of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and on her visit to the country from 13 to 19 February 2002;[6]

(k) The action undertaken by the human rights field office in the Democratic Republic of the Congo;

(l) The release and repatriation carried out under the auspices of the International Committee of the Red Cross in the Democratic Republic of the Congo, in conformity with international humanitarian law, of persons at risk because of their ethnic origin and of prisoners of war;

(m) The continuing presence and increased deployment of the United Nations Organization Mission in the Democratic Republic of the Congo in support of the implementation of the Lusaka Ceasefire Agreement and the relevant Security Council resolutions;

(n) The work of the Special Representative of the Secretary-General for the Democratic Republic of the Congo and Chief of the United Nations Organization Mission in the Democratic Republic of the Congo;

2. *Condemns*:

(a) The continuing violations of human rights, fundamental freedoms and international humanitarian law, including acts of and incitement to ethnic hatred and

[7] Resolution 54/263, annex I.
[8] A/CONF.183/9.

violence and atrocities against civilian populations, generally committed with complete impunity;

(b) All massacres and atrocities committed in the Democratic Republic of the Congo, as constituting indiscriminate and disproportionate use of force, in particular those occurring in areas held by armed rebels or under foreign occupation, and referring in this regard to the statement by the President of the Security Council of 23 July 2002 on the massacres that occurred in the region of Kisangani on 14 May 2002 and in the ensuing period;[9]

(c) The reprisals against civilian populations in parts of the country controlled by the Congolese Rally for Democracy, Rwanda and Uganda;

(d) The occurrence of cases of summary and arbitrary execution, disappearance, torture, beating, harassment and arrest, the persecution of individuals and the arbitrary detention for long periods of persons, including journalists, opposition politicians, human rights defenders, people who have cooperated with the United Nations mechanisms and other members of civil society;

(e) The indiscriminate attacks on civilian populations and on hospitals in areas held by rebel and by foreign forces;

(f) The recruitment and use of child soldiers by armed forces and groups, including the abduction of children throughout the territory of the Democratic Republic of the Congo, which is in contravention of international human rights standards;

(g) The widespread use of sexual violence against women and children, including as a means of warfare;

3. *Expresses its concern* at:

(a) The adverse impact of the conflict on the situation of human rights and its severe consequences for the security and well-being of the civilian population throughout the territory of the Democratic Republic of the Congo, including the increase in the number of refugees and displaced persons, in particular in the eastern part of the country;

(b) The breaches of freedom of expression, opinion, association and assembly throughout the territory of the Democratic Republic of the Congo, in particular in the eastern part of the country;

(c) The intention of the Government of the Democratic Republic of the Congo to suspend the moratorium on the carrying out of the death penalty;

(d) The illegal exploitation of the natural resources of the Democratic Republic of the Congo, with regard to the link between that exploitation and the conflict;

(e) The excessive accumulation and spread of small arms and the distribution, circulation and illicit trafficking of arms in the region and their negative impact on human rights;

(f) The severe insecurity, which seriously hampers the ability of humanitarian organizations to secure access to affected populations, particularly in

[9] S/PRST/2002/22.

the zones held by armed rebels and under the control of foreign forces, while condemning the killing of six humanitarian workers of the International Committee of the Red Cross on 26 April 2001 in the eastern part of the Democratic Republic of the Congo and the fact that those responsible remain to be brought to justice;

4. *Urges* all parties to the conflict in the Democratic Republic of the Congo:

(a) To cease, in accordance with all the relevant agreements and resolutions, all military activities in the country in order to facilitate, without delay, the re-establishment of the sovereignty and territorial integrity of the Democratic Republic of the Congo;

(b) To acknowledge that the peace agreements signed at Pretoria and Luanda present an unprecedented opportunity to bring peace to the entire Democratic Republic of the Congo and therefore all parties should suspend their armed campaigns and avoid seeking retribution against their old adversaries, which will only serve to prolong the agony of the Congolese people and the appalling humanitarian and human rights conditions that they have suffered;

(c) To implement all necessary measures to put an end to the widespread violations of human rights and to impunity, in particular with regard to the sexual violence against women and children;

(d) To allow free and secure access to areas under their control in order to permit investigations of violations of human rights and international human rights law;

(e) To respect international humanitarian law, in particular to ensure the safety of all civilians, and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(f) To ensure the safety, security and freedom of movement of United Nations and associated personnel and the unhindered access of humanitarian personnel to all affected populations throughout the territory of the Democratic Republic of the Congo;

(g) To cooperate fully with the National Commission of Inquiry on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo;

(h) To extend full cooperation to the United Nations system, humanitarian organizations and the World Bank in order to ensure the rapid demobilization and reintegration of armed groups and of child soldiers in particular;

5. *Calls upon* the Government of the Democratic Republic of the Congo to take specific measures in order:

(a) To comply fully with its obligations under international human rights law and to promote and protect human rights and fundamental freedoms;

(b) To prevent conditions that might lead to further flows of displaced persons and refugees within the Democratic Republic of the Congo and across its borders;

(c) To continue to honour its commitments to reform and restore the judicial system, to abolish the death penalty and to reform military justice, including that of

putting an end to the trying of civilians by the military court, in conformity with the provisions of the International Covenant on Civil and Political Rights;[10]

(d) To put an end to impunity and to ensure that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice;

(e) Along with other parties to the Inter-Congolese Dialogue to reach agreement with utmost urgency on a fully inclusive transitional government which can assert its authority and re-establish order throughout the territory of the Democratic Republic of the Congo;

(f) To continue to facilitate and further strengthen its cooperation with the human rights field office in the Democratic Republic of the Congo;

(g) To cooperate fully with the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, and demands that the Government of the Democratic Republic of the Congo arrest all known genocidaires in its territory;

6. *Calls upon* the Governments whose forces are in occupation of part of the territory of the Democratic Republic of the Congo to respect human rights and international humanitarian law in the areas still under their control and to withdraw their troops;

7. *Calls upon* the international community to support the human rights field office in the Democratic Republic of the Congo in order to make possible the effective implementation of its programmes;

8. *Decides*:

(a) To continue to examine the situation of human rights in the Democratic Republic of the Congo and to request the Special Rapporteur of the Commission on Human Rights to report to the General Assembly at its fifty-eighth session;

(b) To request the special rapporteurs on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out, as soon as security considerations permit and, where appropriate, in cooperation with the National Commission of Inquiry to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo between 1996 and 1997, a joint mission to investigate all massacres carried out on the territory of the Democratic Republic of the Congo with a view to bringing to justice those responsible, and to report to the Commission on Human Rights at its fifty-ninth session and to the General Assembly at its fifty-eighth session;

(c) To request the Secretary-General to give the special rapporteurs and the joint mission all necessary assistance to enable them fully to discharge their mandate;

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[10] Resolution 2200 A (XXI).

(d) To request the United Nations High Commissioner for Human Rights to provide the technical skills needed by the joint mission to discharge its mandate.